



**UNIVERSITY OF ESWATINI  
INSTITUTE OF DISTANCE EDUCATION  
BACHELOR OF LAWS/DIPLOMA IN LAW  
FINAL EXAMINATION PAPER NOVEMBER 2019**

TITLE OF PAPER : LAW OF PERSONS  
COURSE CODE : LAW 205 (IDE- LLB & Dip. Law)  
TIME ALLOWED : THREE (3) HOURS  
TOTAL MARKS : 100  
INSTRUCTIONS : ANSWER ANY FOUR (4) QUESTIONS OF YOUR  
CHOICE.

DO NOT OPEN THIS PAPER UNTIL PERMISSION HAS BEEN GRANTED BY THE  
INVIGILATOR.

**QUESTION 1**

It has been argued that the *nasciturus* fiction should not be extended to the field of law of delict for a claim of pre-natal injuries. Discuss this statement, making reference to relevant cases.

[25 marks]

**QUESTION 2**

In the case of *Re Beaglehole 1908 TS 49 [5]*, Innes CJ stated that "there is no hard and fast rule of the Roman-Dutch law that a court is bound to presume death after a lapse of any fixed period of years".

Critically analyse this statement in relation to whether a court may grant a presumption of death order based solely on the lapse of years since the person disappeared.

[25 marks]

**QUESTION 3**

Write short notes on the following in relation to a minor.

- |                                    |           |
|------------------------------------|-----------|
| (a) Unjust enrichment              | (3 marks) |
| (b) Emancipation                   | (5 marks) |
| (c) <i>Locus standi in judicio</i> | (5 marks) |
| (d) Repudiation                    | (5 marks) |
| (e) Ratification                   | (7 marks) |

[Total : 25 marks]

**QUESTION 4**

Making reference to decided cases, discuss whether the following persons may acquire a domicile of choice in the country where they are stationed or posted.

- (a) Foreign military staff (15 marks)
- (b) Foreign diplomats (10 marks)

[Total : 25 marks]

### **QUESTION 5**

While Simiso was still a minor he inherited E1.2 Million Emalangeni from his grandfather. The will in terms of which he inherited the money, provided that the money would remain in trust and that he would be entitled only to interest on the capital.

During Simiso's minority his father in his capacity as his guardian, purchased a house in Thembelihle, Mbabane on Simiso's behalf. There was no money at hand to pay for the house, so the parties agreed that the purchase price of E800,000.00 (Eight Hundred Thousand Emalangeni) would be payable in instalments. The value of the property was no more than E600, 000.00 (Six Hundred Thousand Emalangeni). Until Simiso's majority, the instalments were paid out of the interest of the sum he had inherited.

During his minority Simiso lived on the property with his parents. When he reached the age of majority, a considerable portion of the purchase price was still unpaid. The instalments would absorb most of the interest payable to him in terms of the will. He has now come to court and he wants to cancel the contract and claim repayment of the amounts he has already paid in terms of the contract. He argues that he is entitled to claim *restitutio in integrum* on the ground that the contract has prejudiced him.

Will he succeed?

Your answer must be supported with relevant case law. [25 marks]